

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

July 19, 2012 Meeting
Agenda Item 3

SUBJECT: Rose Bakery Café Use Permit Review
Amendment No. 1 to UP2009-035 - (PA2010-103)

**SITE
LOCATION:** 3536 East Coast Highway

APPLICANT: Rose Bakery Café

PLANNER: Fern Nueno, Assistant Planner
(949) 644-3227, fnueno@newportbeachca.gov

PROJECT SUMMARY

One year review of Amendment No. 1 to UP 2009-035 as required by condition of approval no. 5. The purpose of the review is to determine compliance with the conditions of approval and effectiveness of the Parking Management Plan.

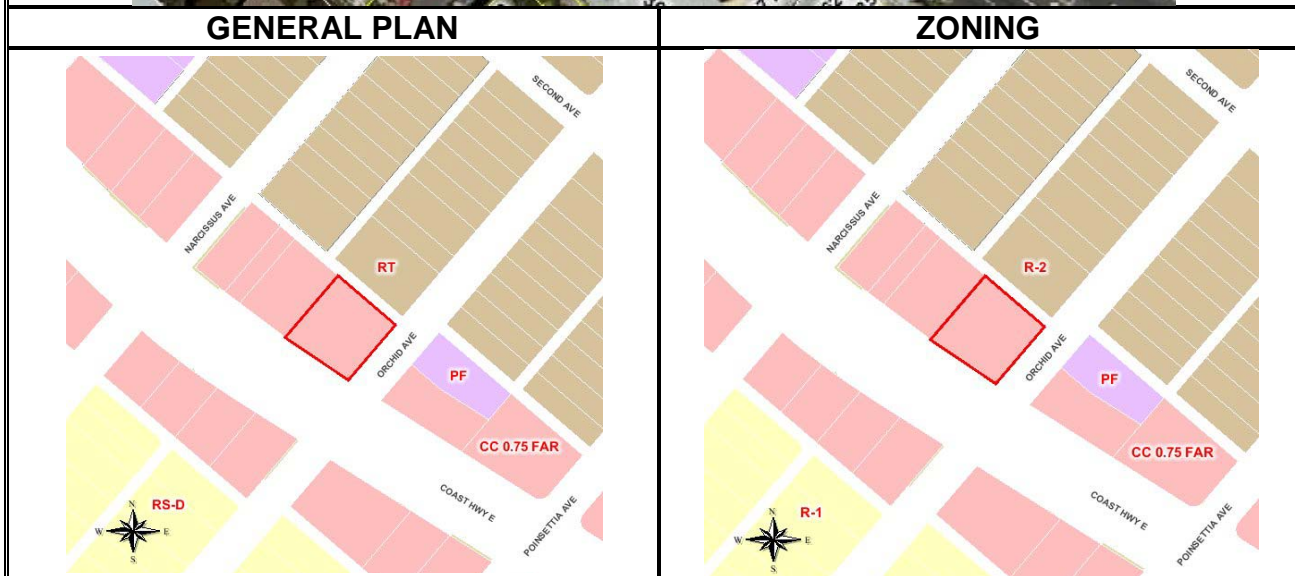
RECOMMENDED ACTION

- 1) Receive public comments; and
- 2) Receive and file.

INTRODUCTION

Project Setting

The subject restaurant is located at the northwest corner of East Coast Highway and Orchid Avenue. The lot is developed with a multi-tenant, retail building that includes a nail salon, take-out pizza restaurant, and dry cleaners, and a surface parking lot with thirteen (13) parking spaces. The off-site lot is located to the rear of the property on the other side of the alley at 409 Orchid Avenue.



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Commercial Corridor (CC)	Commercial Corridor (CC)	Retail
NORTH	Two-Unit Residential (RT)	Two-Unit Residential (RT)	Parking lot and residential
SOUTH	Commercial Corridor (CC)	Commercial Corridor (CC)	Retail
EAST	Commercial Corridor (CC)	Commercial Corridor (CC)	Retail and Post Office
WEST	Commercial Corridor (CC)	Commercial Corridor (CC)	Retail

Project Description and Background

On December 9, 2010, the Planning Commission adopted Resolution No. 1829 (Attachment No. PC 1, Meeting Minutes are Attachment No. PC 2), approving an amendment to Use Permit No. UP2009-035 for a parking management plan (Attachment No. PC 3) to waive the fifteen (15) parking spaces required for the addition of the outdoor dining area. In order to mitigate the potential effects of the parking waiver, the applicant utilizes twenty-nine (29) parking spaces that are located at 409 Orchid Avenue until 5 p.m., daily. This parking lot is leased by the Landmark Steakhouse Restaurant, which is only open for dinner. The approval also included an increase in the hours of operation from 5:00 a.m. – 7:00 p.m. to 5:00 a.m. – 8:00 p.m.

The condition requiring the one year review was included to allow the Planning Commission to assess parking and operation after the outdoor dining addition.

DISCUSSION

Operation and Parking

Staff believes the establishment operates in conformance with the conditions of approval and the parking management plan. Staff has observed that the restaurant is busy, especially during the morning and around lunchtime. Observations indicate some customers walk and bicycle to the establishment, which helps reduce parking demand.

The establishment's hours of operation are currently from 5:00 a.m. to 7:00 p.m. The 500 square foot, 37 seat outdoor dining area was constructed per the Use Permit approval and was completed in February 2012. Pursuant to Condition No. 6, appropriate barriers were installed separating the outdoor dining area from the adjacent parking lot and public rights-of-way. Additionally, an interior remodel of the customer and display/cashier area was approved and constructed within the last six (6) months. The remodel decreased the net public area to approximately 223 square feet.

Pursuant to Condition No. 8, the parking lot was restriped to increase the number of parking spaces from 12 to 13. Pursuant to Condition No. 4, the Parking Management Program has been in effect. The off-site parking lot with 29 spaces is still available and being utilized. A sign located at the subject site directs patrons to park in the off-site parking lot across the alley. The operator has indicated that more permanent and prominent signage has been ordered and will be posted soon.

Applicant's Statement

The applicant submitted a statement (Attachment No. PC 4) asserting that the restaurant has been an asset to the community and that the parking arrangement functions satisfactorily.

Code Enforcement

The Code Enforcement Division reported (Attachment No. PC 5) that three complaints were received regarding the trash area located in the rear of the building since the approval of the Use Permit amendment. One complaint was also for graffiti. Because the trash area is shared with other tenants, the property management company has also been contacted to resolve these issues. Code Enforcement worked with applicant and with the property management company to correct the refuse violations. The graffiti complaint was directed towards the Municipal Operations Department and the issue was resolved. No further violations have been observed by or reported to Code Enforcement.

Conclusion

Staff believes the applicant has complied with all required conditions of approval and the operation, as approved, has not proven to be detrimental to the surrounding neighborhood. Therefore, no changes to the conditions of approval or subsequent reviews are recommended.

Alternatives

Should the Planning Commission choose to make changes to the Use Permit, staff can draft a resolution for review at a future meeting.

Environmental Review

This Use Permit review is exempt from environmental review pursuant to Section 15321 (Class 21 - Enforcement Actions by Regulatory Agencies) of the Guidelines for Implementation of the California Environmental Quality Act. This section exempts actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency.

Public Notice

Notice of this review was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:



Fern Nueno
Assistant Planner

Submitted by:



Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

- PC 1 Resolution No. 1829
- PC 2 Planning Commission Meeting Minutes
- PC 3 Parking Management Plan
- PC 4 Applicant's Statement
- PC 5 Code Enforcement Memo
- PC 6 Site Plan

Attachment No. PC 1

Resolution No. 1829

RESOLUTION NO. 1829

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING AMENDMENT NO. 1 TO USE PERMIT NO. UP2009-035 FOR A PARKING WAIVER AND AN INCREASE IN THE HOURS OF OPERATION FOR PROPERTY LOCATED AT 3536 EAST COAST HIGHWAY (PA2010-103)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Rose Bakery Café, with respect to property located at 3536 East Coast Highway, and legally described as Lots 4 and 5, Block U, Tract 0323, requesting approval of a use permit for a parking waiver.
2. The applicant proposes a use permit amendment for a parking waiver of fifteen (15) parking spaces that were required with the restaurant expansion approved with Use Permit No. UP2009-035. The applicant also proposes to increase the hours of operation by one hour.
3. The subject property is located within the Commercial Corridor (CC) Zoning District and the General Plan Land Use Element category is Corridor Commercial (CC).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on December 9, 2010, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
2. Class 1 includes the operation of existing facilities involving negligible or no expansion of use. The application does not include any changes in use or physical changes to the property. The parking does not negatively affect the traffic or circulation in the area based on the number of pedestrian customers and the use of the off-site parking lot.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

- A-1. The existing restaurant is consistent with the CC (Corridor Commercial) land use designation of the General Plan, which is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The restaurant is consistent with this designation. The existing restaurant is designed and oriented to serve residents and visitors in the area and patrons do walk or bicycle to the restaurant.
- A-2. The subject property is not part of a specific plan area.

Finding:

- B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

- B-1. The existing restaurant is located in the Corridor Commercial (CC) Zoning District, which is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. Restaurants are retail and service uses and are permitted within this Zoning District subject to the approval of a use permit.
- B-2. The parking waiver is necessary to satisfy the Zoning Code-required parking spaces for the previously approved expanded use. The use permit approval is consistent with Chapter 20.40 (Off-Street Parking) of the Zoning Code regarding the waiver of the requirement for fifteen (15) parking spaces in conjunction with the Parking Management Plan.
- B-3. The proposed use complies with Section 20.48.090 (Eating and Drinking Establishments) in regards to the operating standards. The Use Permit contains conditions to maintain the requirements of Section 20.48.090, including conditions regarding storage, outdoor dining, and queuing of patrons.

Finding:

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

- C-1. The proposed project is located within a nonresidential zoning district, but residential uses are located nearby on Orchid Avenue. The project is similar to and compatible with other neighborhood-serving retail and service uses located on East Coast Highway. The size of the building and subject suite is comparable to buildings in the Corona del Mar area.
- C-2. The operational characteristics are that of a bakery and restaurant, and the hours of operation of the establishment are restricted and the use cannot operate as a bar or nightclub. The restaurant serves residents, visitors, and employees in the area.
- C-3. The subject site contains thirteen (13) parking spaces and the restaurant employees and patrons will also utilize the adjacent parking lot containing twenty-nine (29) parking spaces, thereby avoiding parking in the adjacent residential area. Corona del Mar serves a larger number of pedestrians and bicyclists, which justifies a reduction in the off-street parking requirement. The location of the outdoor patio expansion does not hinder pedestrian movement along East Coast Highway.

Finding:

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g. fire and medical) access and public services and utilities.*

Facts in Support of Finding:

- D-1. The lot is approximately 10,000 square feet in area, and is developed with a multi-tenant building and surface parking lot containing 13 parking spaces. The existing building and parking lot have functioned satisfactorily with the current configuration.
- D-2. The site is located adjacent to a parking lot that is not utilized during the day and it is available for patrons of the use.
- D-3. The proposed project includes a use permit for a parking waiver to reduce the requirement for fifteen (15) off-street parking spaces and will not negatively affect emergency access. The lot is a corner lot and each suite has multiple doors for ingress and egress. The subject lot is surrounded on three sides by public streets and a public alley.
- D-4. The Public Works Department has reviewed and does not have any objection to this application. When Use Permit No. 2009-035 was originally reviewed, the Utilities,

Building, and Fire Departments reviewed the application and also had no objections to the project. The project is required to obtain all applicable permits from the City Building and Fire Departments and must comply with the most recent, City-adopted version of the California Building Code.

- D-5. The on-site parking lot is deficient parking spaces based on the size of the existing building and use of the tenant suites. However, the existing condition has not been detrimental to the community and adequate parking has been available for the uses in the area.

Finding:

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

- E-1. No dancing, live entertainment, or pool tables are allowed on the premises. The employees and patrons of the restaurant have access to the off-site parking lot located on the other side of the alley until 5:00 p.m., daily. The parking survey demonstrated that the on-site parking lot is seldom at capacity. The Walker Parking Consultants Parking Study that analyzed the parking situation in Corona del Mar demonstrates that this area has an adequate supply of off-street parking for the current land uses.
- E-2. The hours of operation of the facility of 5:00 a.m. to 8:00 p.m., daily, will limit any late-night noise impacts on the neighboring residential uses.
- E-3. The conditions imposed on the use will reduce possible detriment to the community by ensuring continued consistency with the intent and purpose of the Municipal Code.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Amendment No. 1 to Use Permit No. UP2009-035, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This resolution supersedes Planning Director's Use Permit No. 29, which upon vesting of the rights authorized by this approval, shall become null and void.

PASSED, APPROVED AND ADOPTED THIS 9th DAY OF DECEMBER, 2010.

AYES: Eaton, Unsworth, McDaniel, Ameri, Toerge, and Hillgren

NOES: Hawkins

ABSTAIN: None

ABSENT: None

BY: 
Earl McDaniel, Chairman

BY: 
Michael Toerge, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The conditions of approval from this Resolution herein replace and supersede the previous conditions of approval from Planning Commission Resolution No. 1802, dated January 12, 2010, upon implementation of this amendment.
3. All applicable conditions of approval of Accessory Outdoor Dining Permit No. 60 shall apply and remain in force. Planning Director's Use Permit No. 29 is null and void.
4. This use permit is subject to the approved Parking Management Program, which can be modified by the Planning Director or Planning Commission.
5. The Use Permit shall be reviewed by the Planning Commission one year after the conclusion of the appeal period.
6. Appropriate barriers shall be placed between outdoor dining areas and parking, pedestrian, and vehicular circulation areas. Barriers shall serve only to define the areas and shall not constitute a permanent all-weather enclosure.
7. The queuing of patrons shall be managed to allow pedestrian passage on the sidewalk.
8. The parking lot shall be restriped according to the approved plans from this Use Permit dated July 16, 2010.
9. Deliveries, refuse collection, and grease trap clean out for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., unless otherwise approved by the Planning Director, and may require an amendment to this Use Permit.
10. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Planning Director, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Planning Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
11. No outside paging system shall be utilized in conjunction with this establishment.
12. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.

13. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
14. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
15. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
16. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

17. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
18. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
19. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
20. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
21. This Use Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which

it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

22. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
23. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. The construction plans must meet all requirements for the restroom facilities.
24. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
25. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
26. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Rose Bakery Café Parking Management Plan including, but not limited to, Amendment No. 1 to Use Permit No. UP2009-035 and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.
27. Amendment No. 1 to Use Permit No. UP2009-035 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.

Attachment No. PC 2

Planning Commission Meeting Minutes

<p>Applicant Rob Lucio, Real Estate Manager of Chipotle Mexican Grill, responded to the Commission's questions.</p> <p>Chairperson McDaniel continued this item and called a recess to allow the applicants to consider their options.</p>	
* * *	
<p>SUBJECT: McLaren Newport Beach – (PA2010-165) 2540-2542 West Coast Highway</p> <p>A conditional use permit to allow an automobile dealership (Vehicle Sales) in an existing commercial building. The proposed use would be limited to sales of vehicles only, with the inventory, storage, maintenance, and repair of vehicles conducted off-site.</p> <p>Patrick Alford, Planning Manager, addressed questions regarding the project.</p> <p>The Commission asked questions concerning the following:</p> <ul style="list-style-type: none"> • Street closure for transport of vehicles to and from the showroom. • Hours of operation. • Beer and wine availability. • Interior remodel and exterior improvements. • Signage on the building. • Newly adopted Zoning Code applicable. <p>The Applicant, David McCullagh, responded to the Commission's questions.</p> <p>Public comment period was opened.</p> <p>No public comments.</p> <p>Public comment period was closed.</p> <p>Motion made by Commissioner Hawkins and seconded by Commissioner Ameri to move for approval, including the addition of Condition 17A in the Exhibit "A" of the Resolution, requiring the point of sales for McLaren to be Newport Beach.</p> <p>Motion carried with the following vote:</p>	<p>ITEM NO. 4 PA2010-165 Approved</p>
<p>Ayes: Noes:</p>	<p>Unsworth, Hawkins, McDaniel, Ameri, Toerge, Eaton, and Hillgren None</p>
* * *	
<p>SUBJECT: Rose Bakery Café Management Plan – (PA2010-103) 3536 East Coast Highway</p> <p>An amendment to Use Permit No. UP2009-035 to waive 15 parking spaces required by the previously approved expansion of the restaurant. The applicant also requests a change in the hours of operation from 5:00 a.m. – 7:00 p.m. to 5:00 a.m. – 8:00 p.m.</p> <p>Fern Nueno, Assistant Planner, gave a brief overview of the staff report.</p> <p>The Commission asked questions concerning the following:</p> <ul style="list-style-type: none"> • Change to title and recordation regarding the Off-Site Parking Agreement. • Day-time parking consent from Landmark Steakhouse Restaurant. • Hours of operation. 	<p>ITEM NO. 5 PA2010-103 Approved</p>

<p>Ms. Nueno presented the staff report. Dennis O'Neil, who represented the Owners of Rose Bakery Café, responded to the questions from the Commission.</p> <p>Public comment period was opened.</p> <p>Comments were given by the following residents from the surrounding neighborhood:</p> <p>Eveline Dennis – 345 University Drive, Costa Mesa Steven Fischer – 510 Poinsettia Avenue, Corona Del Mar Richard Nichols – 519 Iris, Corona Del Mar Paul Deem – 1305 Circle Way Ernest G. Johanson – 34 Tinior Sea, Newport Beach Steve Berede – 376 Magnolia Drive</p> <ul style="list-style-type: none"> • Friendly environment. • High caliber of service from staff. • Parking lot issue at the bank on 3600 Coast Highway. • No problems with parking. • Parking lot studies. • Allegation that the Applicants had been discriminated against. <p>Commissioner Hawkins, in response to the allegation by Dr. Nichols, stated that these were serious allegations and asked that the staff respond. City Attorney, Leonie Mulvihill, disagreed there had been any discrimination in the handling of the Application. Acting Planning Director, James Campbell, stated that there was no discrimination; however, there was a Code Enforcement issue and the process was followed correctly. Mr. O'Neil represented that, on behalf of his clients, there had not been any discrimination.</p> <p>Public comment period was closed.</p> <p>Motion made by Commissioner Toerge and seconded by Commissioner Hillgren to adopt a resolution approving Amendment No. 1 to Use Permit No. UP2009-035 subject to the conditions attached in the Draft Resolution Commissioner Hawkins stated that he could not support this substantial parking wavier for several reasons: First, the parking arrangement is not substantial; it is simply a revocable license. Second, without an in lieu parking ordinance, waiving this parking requirement will exacerbate the current parking shortage; the City needs to adopt an in lieu parking ordinance to fund additional parking, rather than waiving it.</p> <p>Motion carried with the following vote:</p>	
<p>Ayes: Unsworth, McDaniel, Ameri Toerge, Eaton, and Hillgren Noes: Hawkins</p>	
* * *	
<p>SUBJECT: Chipotle Mexican Grill – (PA2010-096) 3101 Newport Boulevard</p> <p>A use permit and accessory outdoor dining permit to allow a take-out service eating and drinking establishment with a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license and an outdoor patio. The project is located in the Landing Shopping Center (formerly Albertson's)</p> <p>Motion made by Commissioner Unsworth and seconded by Commissioner Toerge to further table Item No. 3 so that a motion for reconsideration can be made on Item No. 2.</p>	<p>ITEM NO. 3 PA2010-096 Tabled</p>

Attachment No. PC 3

Parking Management Plan

Parking Management Plan (PA2010-103)
3536 East Coast Highway
Rose Bakery Café
December 9, 2010

The following Parking Management Plan is provided pursuant to Section 20.40.110 (Adjustments to Off-Street Parking Requirements) of the Zoning Code. The Parking Management Plan will employ the following management mechanisms to mitigate impacts associated with a waiver of fifteen (15) off-street parking spaces as required by Chapter 20.40 of the Zoning Code:

Off-Site Parking

- 29 off-site parking spaces shall be provided at 409 Orchid Avenue.
- The property owner or lessee of 409 Orchid Avenue may terminate this arrangement at any time.
- The establishment's use of these spaces shall no longer be valid if the lessee at 3520 East Coast Highway expands their operation hours to open prior to 5:00 p.m.
- Should the off-site parking spaces become no longer available for use by the subject restaurant, the Planning Director or Planning Commission may request a review of Use Permit No. UP2009-035.
- Employees who drive to work shall park at 409 Orchid Avenue until 5:00 p.m.
- The owner or operator shall immediately notify the Planning Director of any change of ownership or use of the property at 409 Orchid Avenue, or of any change in the agreement between the parties.
- Upon notification that the off-site parking spaces are no longer available, the Planning Director shall establish a reasonable time in which one of the following shall occur:
 - Substitute parking is provided that is acceptable to the Planning Director; or
 - The size or capacity of the use subject to this use permit is reduced in proportion to the parking spaces lost.

Attachment No. PC 4

Applicant's Statement

Dear commissioners,

It has been over a year since you have kindly approved our plan. There has since been some changes and development that I would like to share with you.

Firstly, we have completed our renovation including the exterior patio. In the interior, we completely change the ceiling and the flooring throughout the shop with new panels and new slip resistant tiles. In addition, we added more lighting to the food preparation area and the corridor area to the restroom for safety and sanitary reason. In the main food cooking area, we added a new wall with a push thru window to double our efficiency. And, in the front customer area, we completely redesign the layout with new self serve coffee station, black granite counter, new curve glass showcase, new dark wood cabinetry, and a new L.E.D. led curve design ceiling with the Venetian plaster throughout to tie everything together. The new look allow our café to blend in better with the community of Newport Beach.

Secondly, we have hired eight more employee in addition to the twelve that we currently have on staff. Some of these kids has been looking for a job for a while without success because of their young age. This their first job or second, allows them to acquire a working skills and good working habits that will help them in their next life endeavors. It has been enlightened and rewarding working with them. Some you would have been proud if you see how will they do. And other were introduce to us directly by their parents because they see that our establishment would provide a positive learning experience for their child. And a few of those parents even go as far as willing to subsidize their pay if I was willing to hire, and of course, I hired but without the subsidy.

And thirdly, this little whole in the wall, commissioner, had have a positive affects on so many lives not just those that work here, but also, all of our local customers, and visitors from abroad. We have heard many story of how the locals has met others that knows and likes Rose Café and spoke about us while they were away on vacation in the other states. We have vacationers from all over the world such as Germany, China, England, Saudi Arabia, Ireland, etc., that stay at the Newport Marriott that has told me that they made a point to stop by our establishment because they love our food. And, a few of them have even expressed to me that they want Rose Bakery Café to expand into a franchise, and they would help finance the project because they and their family loves our concept. I can go on and telling you more stories and things that happen since you supported our expansion, but I was hoping this would be enough to give you a glimpse of what has developed at the café since we have our out door eating area.

Commissioners, as you can understand, the patio is essential to the core success of our business. I can remember, it wasn't that long ago when we slave away for years with a few staff, my wife and I was making less per hour than our staff. Without the outdoor seating, this beautiful café that we work so hard to establish would not survive with only four interior tables with these days rent that we are paying. I would only hope, commissioner, that you can see this establishment as our only asset and as one of the city's many. There has been issue with the parking in the past due to the way things has been arrange on paper, and I foresee that there might be issue in the future. However, I can't stop working my dream base on what could happen. When I chose to renovate and spend the fortune of our future, I knowing know that all could be for nothing. For better or worst I know that it is my choice and only mine alone. I just hope that when the time comes all of you would do what you can in all fairness. Moreover, we have been running the café for 14 years now, we have seen the restaurant close down the 30 parking space in the back for their party on Saturday, we have seen the street closure that affect all parking to the center, and we have been through many summer weekends when the parking lots are at its greatest demand, and yet, never did these event ever interferes with our normal customer counts, nor did it affect any business in the center. And if we were to block the surrounding resident from parking on the lots, we would instantly see at the least 15 spaces open up right away. And of course this is not what I condone, I'm just saying that there really are enough parking spaces in the area for all that needs it. In conclusion, commissioners, on the behalf of all that work and patronage at Roses, I just want to thank you for all your support, and hope that all of you can visit us someday and see what its about.

Sincerely,

Shawn Lim

Attachment No. PC 5

Code Enforcement Memo



CODE AND WATER QUALITY ENFORCEMENT DIVISION

MEMORANDUM

July 11, 2012

TO: Fern Nueno, Assistant Planner
FROM: Brian Contino, Code Enforcement Officer
SUBJECT: Rose Bakery Café- 3536 E. Coast Hwy, Corona del Mar

PROPERTY ADDRESS: 3536 E. Coast Hwy
PROPERTY OWNER: Rose Bakery Cafe
NBMC VIOLATION: 10.50.020C- Nuisance- Debris Storage
6.04.095- Commercial Bin Storage

CASE HISTORY

I2011-0484

On May 5, 2011, the City received a complaint regarding the refuse storage area used by Rose Bakery Café. The complaint was the storage area was being left open, trash on the ground inside and surrounding the refuse area, and lids to the dumpsters are being left open.

On May 10, 2011, a notice of violation was issued and mailed to Rose Bakery Café requesting that they keep the area in and around the trash enclosure remains clean and the lids are closed at all times.

On May 15, 2011, a visual re-inspection of the trash enclosure revealed compliance.

I2012-0200

On February 7, 2012, Code Enforcement received a complaint about trash and graffiti on the property. The graffiti complaint was directed towards the City's Municipal Operations Department and Code Enforcement handled the trash complaint.

On March 3, 2012, a notice of violation was issued to the property management company to correct the trash violations.

I2012-0971

On June 28, 2012, Code Enforcement received a complaint about the trash enclosure located on the property. A \$100 citation was issued to the property owner for the following violations: 1. Trash cans with out lids. 2. Trash needs to be placed into containers. 3. Recycled goods need to be placed into containers with a secure lid. 4. The trash enclosure area needs to be power washed. All of the violations must be corrected by July 9, 2012.

On July 10, 2012, a follow up inspection was conducted of the property. After the inspection it was determined that property management, took the necessary actions to bring the refuse area into compliance.

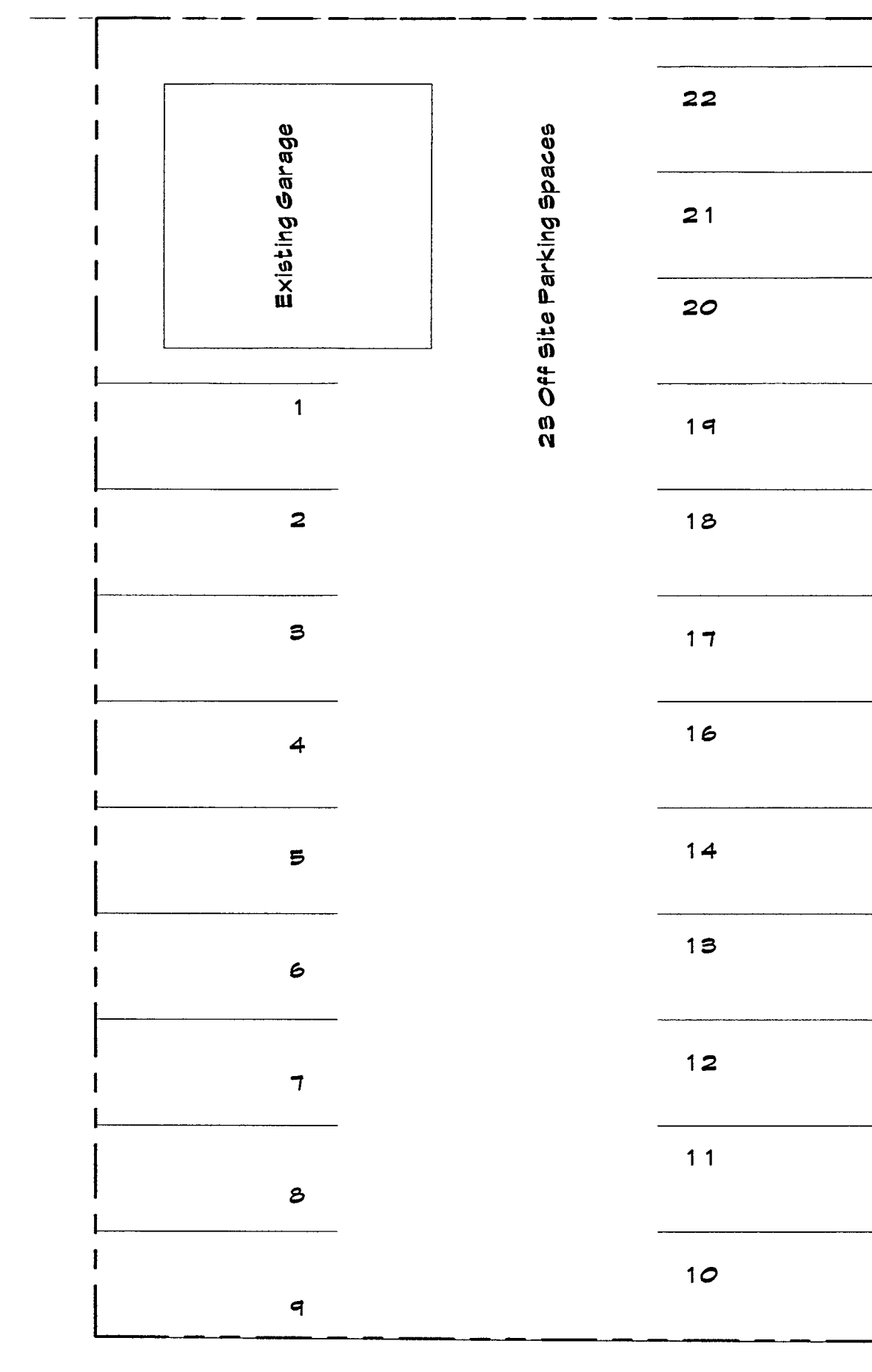
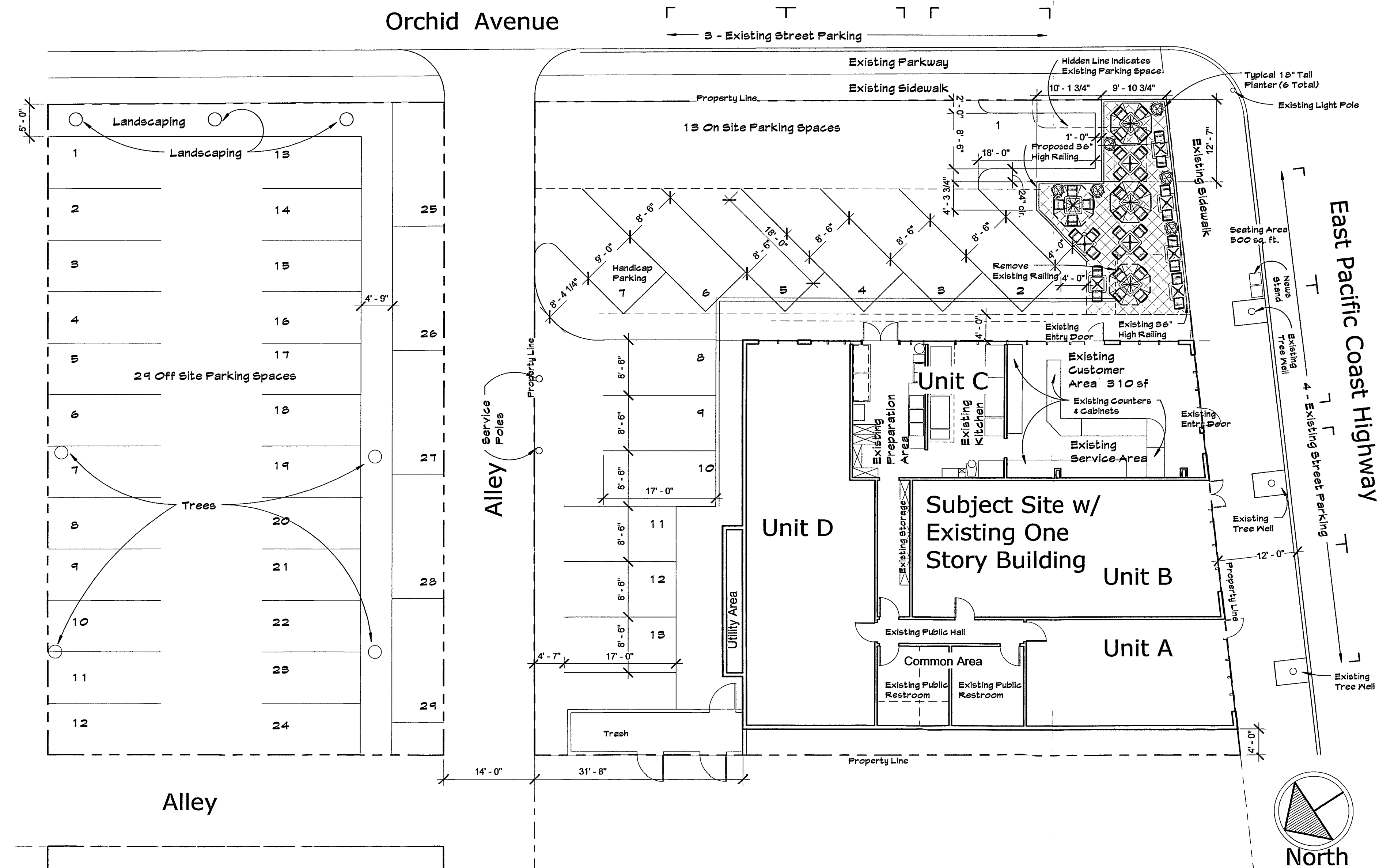
Thank you,

A handwritten signature in black ink, appearing to read 'B. N. Contino', is written over a horizontal line.

Brian N. Contino
Code & Water Quality Enforcement Officer

Attachment No. PC 6


Site Plan



Areas

Unit A	Nail Salon	500 sf
Unit B	Pizza	961 sf
Unit C	Rose Bakery Cafe	1265 sf
Unit D	Cleaner	1063 sf
Common & Utility		586 sf
Total		4375 sf

① Site
3/32" = 1'-0"

APPROVED BY: 

<input type="checkbox"/> Planning Director	<input type="checkbox"/> Zoning Administrator
<input checked="" type="checkbox"/> Planning Commission	<input type="checkbox"/> City Council
<input checked="" type="checkbox"/> As Submitted	<input type="checkbox"/> As Modified

Refer to: ☒ Resolution ☐ Approval Letter
of Pgs Approved: 3 Date: 12/01/2010

Exterior
Seating
Layout

Permit
Application

Revisions

RECEIVED BY
PLANNING DEPARTMENT
JUL 16 2010
CITY OF NEWPORT BEACH

Rose Bakery
Cafe

3536 Coast
Highway #C
Newport
Beach, Ca

Site Plan

job no. 0
date 02-24-10

Sheet
1

of

ADDITIONAL
MATERIALS
RECEIVED

Rose Bakery Café



Planning Commission
Public Hearing
July 19, 2012

STAFF PRESENTATION



Introduction



- **Project Description**

- Review of Amendment No. 1 to Use Permit No. UP2009-035 (PA2012-103)
- Determine compliance with the conditions of approval and effectiveness of the Parking Management Plan

- **Project Location**

- East Coast Highway and Orchid Avenue
- 3536 East Coast Highway

Vicinity Map



Review



- Operation
- Parking
- Code Enforcement



Recommendation



- Receive public comments
- Receive and file



For more information contact:

Fern Nueno

949-644-3227

fnueno@newportbeachca.gov

www.newportbeachca.gov

RECEIVED

2012 JUL 16 AM 11:02

519 Iris Avenue
Corona del Mar, CA 92625

July 13, 2012

OFFICE OF
THE CITY CLERK
CITY OF NEWPORT BEACH
Newport Beach Planning Commission
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92660

Planning Chair and Commissioners
Thursday, July 19th Regular Meeting

RECEIVED BY
COMMUNITY
JUL 16 2012
DEVELOPMENT
CITY OF NEWPORT BEACH

Re: Rose Bakery Cafe Use Permit Review

We, Dick and Sandy Nichols, support the use permit of Rose Bakery Cafe. Rose Cafe is a gem right in the middle of Olde Corona del Mar. In the 40 years that we have lived in CdM, we have not enjoyed an eatery as much as we enjoy Rose's.

The owners are hard working and they serve really good food at a reasonable price. We also totally enjoy seeing all the young people they employ. We feel that for many of the employees this is their first on the job training. . Rose's is truly a success story. That is clear by the people that line up and those waiting for a table to enjoy their meal.

Over the years, there have been many restaurants that have not survived. We hope that the City of Newport Beach and the Planning Commission will continue to work with the owners of Rose Cafe to ensure their continuing success.

As for parking, we walk to Rose's, as do many other people. There are other places in town where parking is really a problem and no one seems to notice. Katy corner, across PCH, there is a hair salon, candy store, clothing store, flower stand, and Chronic Taco's restaurant. There are about 10 spaces, two spaces are marked for 15 minutes to serve all the above mentioned business.

We understand there is one individual in town who complains about Rose Bakery and Cafe. Well you have 6 in our family who have nothing but praise for the owners and staff of Rose's.

We ask that you approve this use permit for Rose Bakery and Cafe and let the people who frequent Roses OFTEN continue to enjoy this little Gem for years to come.

Very truly yours,

Dick & Sandy Nichols
Dick and Sandy Nichols



Item 3b: Public Comments - Purcell
Planning Commission July 19, 2012
PA2010-103

2012/07/11 11:45

UNAUTHORIZED VEHICLES PARKED IN
DESIGNATED ACCESSIBLE SPACES
NOT DISPLAYING DISTINGUISHING
PLACARDS OR LICENSE PLATES
ISSUED FOR PERSONS WITH
DISABILITIES WILL BE TOWED
AWAY AT THE OWNER'S EXPENSE.
TOWED VEHICLES MUST BE CLAIMED
AT POLICE DEPARTMENT

PATRONS OF 3536 EAST
COAST HWY.

THERE ARE MORE
PARKING ON THE
ADJACENT LOT

(949) 644-3681

2012/07/11 11:43



**ADDITIONAL
ROSE BAKERY CAFE
PARKING AVAILABLE
IN ADJACENT
BACK LOT**

2012/07/18 17:57



2012/06/28 10:11



LR
Rose & Co.
Lighting

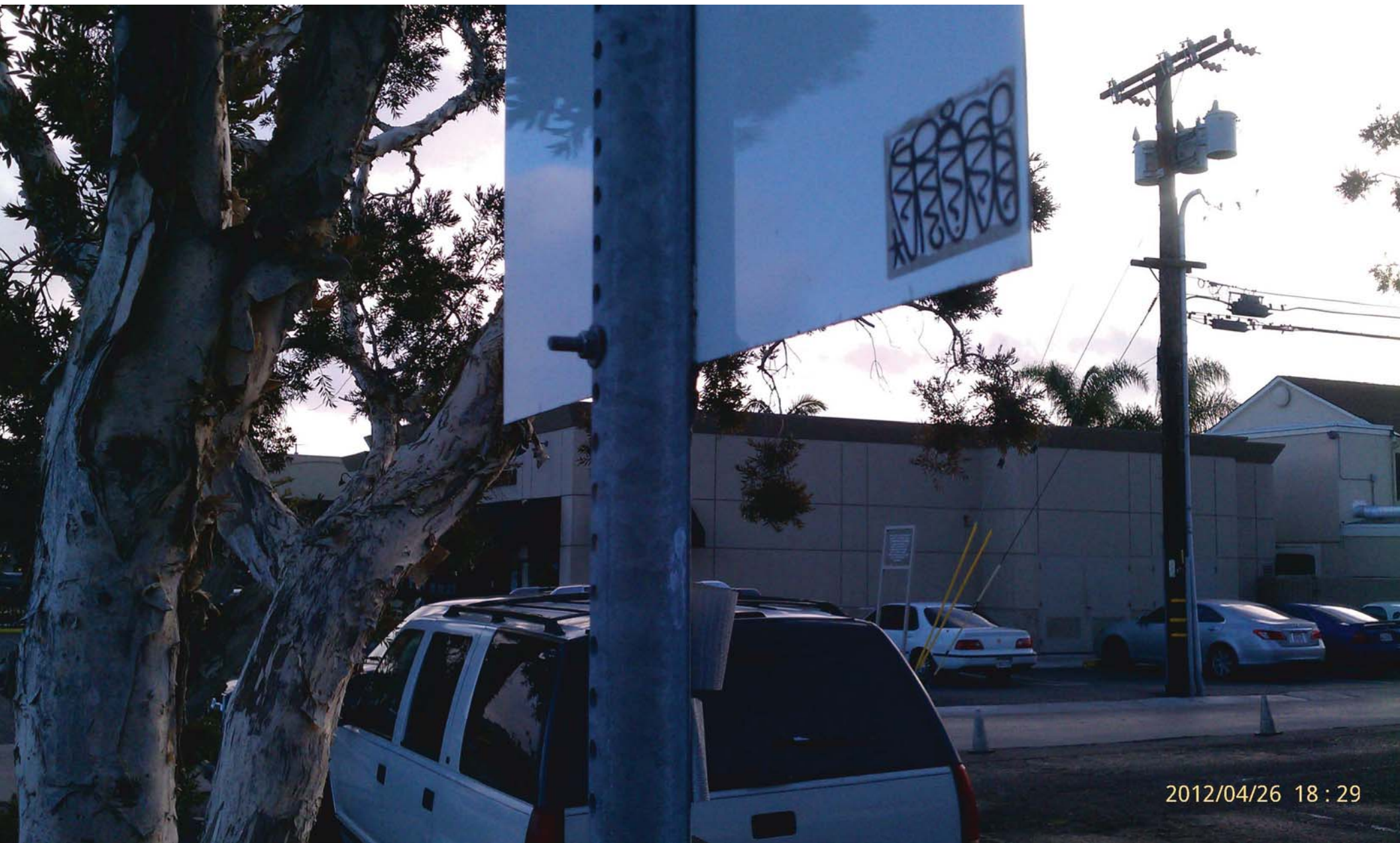
Linden Rose & Co.
Lighting

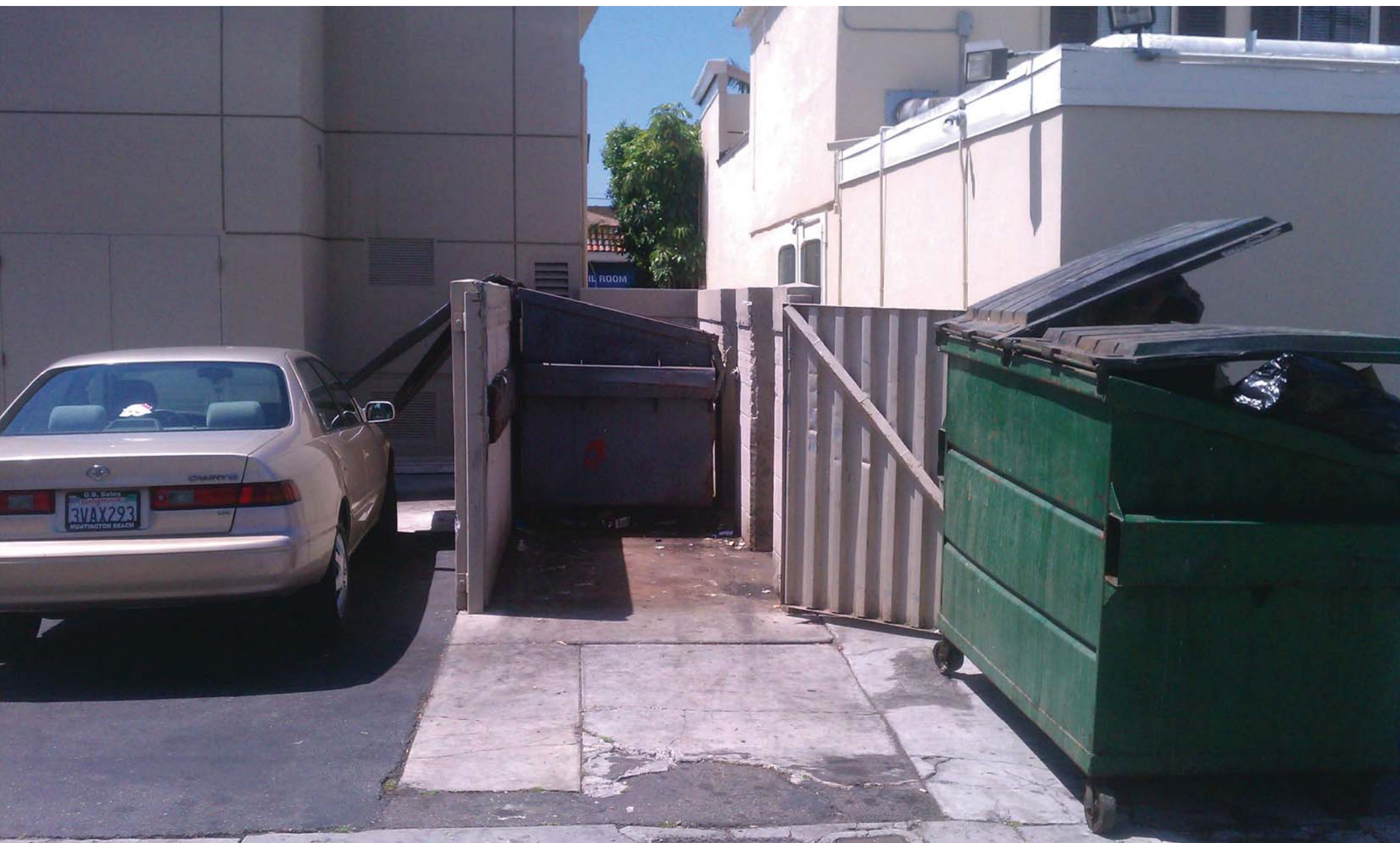
PROPERTY STATE OF CALIFORNIA

VINCIRA
COM

STATES
OFFICE
EL MAR
NIA
5

WELLS FARGO



























Handwritten text: 2/2



-----Original Message-----

From: Dan Purcell

Sent: Thursday, March 01, 2012 11:17 AM

To: KBrandt@newportbeachca.gov; Matt Cosylion (MCosylion@newportbeachca.gov)

Cc: Jim Mosher

Subject: FW: 3536 E Coast Hwy Stickers, Dumpsters and Dining

Hi Kim:

I want to review the recent approval for the Rose's remodel and I would appreciate the opportunity to have staff explain the approval, as I am not an expert in these matters. In speaking with Matt yesterday, I learned the owner of Rose's is not allowed to have an unlimited number of seats outside, contrary to what the owner told me. Moreover, there seems to be no solution to the waste management problems at the property.

Thanks,
Dan

-----Original Message-----

From: Dan Purcell

Sent: Sunday, February 26, 2012 5:53 PM

To: Matt Cosylion (MCosylion@newportbeachca.gov)

Cc: KBrandt@newportbeachca.gov; Jim Auger (jauger@newportbeachca.gov); strataland@earthlink.net; Gardnerncy@aol.com; CdMRA (info@cdmra.org)

Subject: 3536 E Coast Hwy Stickers, Dumpsters and Dining

Hi Matt:

I am trying to stay on top of the situation at Rose's because it is indicative of situations throughout the business district in Corona del Mar. I am not sure how much seating the business is allowed, but I was by yesterday morning and found the following:

46 chairs on the patio
16 tables on the patio
13 chairs inside
4 tables inside

I would appreciate you letting me know if this fits within the allowable limits for the permit. The owner told me there is no limit to the seating he is allowed, as long as the seating stays within the designated area.

I realize you are addressing the dumpster area, but I feel the businesses are disrespecting your efforts. One dumpster still does not have a lid and the lids were open on the other dumpster. Liquid was pooling on the ground and food waste and other trash was present. Crows can access the trash and carry it around the neighborhood.

City signs near the business have fresh stickers on them. I feel the owners of the business should call the graffiti and sticker hotline and not expect others to manage the problem for them. One of the stickers is "dripslikehoney" and is produced by Chris Bunyan. I have received threats from Bunyan and the police department is aware of the ongoing issue with him. Some of his poetry is listed below.

I appreciate your effort and realize you have a lot of things on your plate.

Thanks,
Dan